

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,	)	
	)	
Plaintiff,	)	No. CR05-0507 PJH (BZ)
	)	
v.	)	
	)	
BERNARD THOMAS JR.,	)	<b>DETENTION ORDER</b>
	)	
Defendant.	)	
_____	)	

This matter came before the Court on August 11, 2005 and August 19, 2005 for a detention hearing. The defendant, Bernard Thomas Jr., was present and represented by Elena Condes. Assistant United States Attorney Hartley West appeared for the United States of America.

Pretrial Services submitted a report to the Court and the parties that recommended detention, and a representative of Pretrial Services was present at the hearing. The Government requested detention, and the Defendant opposed. Proffers and arguments regarding detention were submitted by the parties at the hearing.

Having considered the parties' proffers, the Pretrial

1 Services Report and the files and records in this matter, I  
2 find that the government has met its burden of showing by  
3 clear and convincing evidence that the defendant is a danger  
4 to the community and that no condition or combination of  
5 conditions will reasonably assure the safety of the community.  
6 I also find that the government has met its burden of showing  
7 by a preponderance of the evidence that the defendant is a  
8 flight risk, but if that were the only risk which the  
9 defendant presented, I am satisfied that I could probably  
10 fashion conditions what would reasonably assure the  
11 defendant's appearance in these proceedings. In so holding, I  
12 have considered the following factors:

13 1. The defendant is charged with a violation of 18  
14 U.S.C. § 844(I)- maliciously damaging and destroying, or  
15 attempting to damage and destroy, by means of fire and  
16 explosive, a vehicle used in interstate and foreign commerce.  
17 The government proffered that the vehicle had been used in a  
18 drive-by shooting which resulted in a death.

19 2. Because he faces a maximum sentence of twenty  
20 years imprisonment, he has an incentive to flee.

21 3. The defendant has a prior criminal record that  
22 includes felony convictions for assault with a deadly weapon,  
23 possession of cocaine for sale, and first degree robbery. The  
24 defendant has had his probation revoked twice. In addition,  
25 bench warrants, generally for failure to appear for what I  
26 take to be probation revocation proceedings, have been issued  
27 for the defendant.

28 4. The government submitted evidence of a telephone

1 conversation in which the defendant appeared to agree to  
2 participate in the killing of a government witness.

3 5. Defendant is a lifelong San Francisco resident  
4 and has family ties to the community. He does not have stable  
5 residential or employment histories. Nor did his father, for  
6 whom he reportedly has been working, appear on his behalf.

7 6. In passing the Bail Reform Act, Congress was  
8 particularly concerned with the danger that drugs and violence  
9 posed to the community.

10 7. Defendant did not proffer any conditions of  
11 release, nor have any occurred to the court, that would  
12 reasonably assure the safety of the community. While his  
13 grandmother and fiance offered to sign an unsecured bond, and  
14 his grandmother offered to act as custodian, given the risks  
15 discussed above and the fact that they have not been able to  
16 successfully guide his behavior in the past, I do not find  
17 that proposal adequate.

18 Therefore, **IT IS HEREBY ORDERED** that:


19 (1) The defendant be, and hereby is, committed to  
20 the custody of the Attorney General for a confinement in a  
21 corrections facility separate, to the extent practicable, from  
22 persons awaiting or serving sentences or being held in custody  
23 pending appeal;

24 (2) The defendant be afforded reasonable opportunity  
25 for private consultation with his counsel; and

26 (3) On order of a court of the United States or on  
27 request of an attorney for the government, the person in  
28 charge of the corrections facility in which the defendant is

1 confined shall deliver the defendant to an authorized Deputy  
2 United States Marshal for the purpose of any appearance in  
3 connection with a court proceeding.

4 Dated: August 19, 2005

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6 \_\_\_\_\_  
7 Bernard Zimmerman  
8 United States Magistrate Judge

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